1900-Ade Chancery Causes: Emily J. Harber vs. J. K. Osborne et
Lee Co.

Shelton, Johnson, Kinser, Scott, Worly, Turner — 1 Plat

CA-Estate Dispute
T-Property

To the Honorable W.T.Miller Judge of the Circuit Court of Lee County Virginia:

Humbly complaining,your Oratrix,Emily J.Harber,would respectfully represent and show unto to your honor,that your Complainant's Father Robert Shelton,was in his life time seized and possessed of certain real estate,lying in the County of Lee State of Virginia,situated about Nine miles West of Jonesville,and bounded by the lands of Put Kinser, Con Kinser and others containing about acres,and being so thereof seized and possessed,sometime inthe year 18 departed this life intestate,leaving your Oratrix,Abraham Shelton,John Shelton heir at law of Wm.Shelton dec.Fanny Johnson nee Shelton,Dorcas Kinser nee Shelton Nancy Scott nee Shelton,Polly Johnson nee Shelton,Eliza Worly nee Shelton his only children and heirs at-law.that John Shelton,Dorcas Kinser,and Abraham Shelton,have each sold their undivided interests in said real estate to Andy Johnson, that Eliza Worly and Polly Johnson have sold their undivided interests to J.K.Osborne,that your Oratrix is entitled to one-eighth interest in said land,that Andy Johnson is entitled to three-eighths,Fanny Johnson one-eighth,Nancy Scott one-eighth and J.K. Osborne two-eighths;that said land has never been partitioned;and your Oratrix further states,that the said real estate is as she believes, susceptible of partition amongst the parties entitled thereto.

The prayer of your Oratrix therefore is:that Fanny Johnson,Andy Johnson Nancy Scott,and J.K.Osborne be made parties defendant to this suit and answer the same,but not on oath,that being waived;that the said real estate be divided between the parties aforementioned entitled thereto, and your Oratrix's portion thereof allowed to her;that a Commissioner be appointed to take an account of the rents and profits of said real estate for the last five year,and said rents be properly apportioned; that in case said real estate be indivisible,that the same be exposed to sale,and the proceeds thereof be distributed among the parties entitled thereto;that proper process may issue,and that such other further and general relief may be afforded your Oratrix as the nature of her case require,or to equity seem meet.And your Oratrix will ever pray,&c.

M. G. Ely. P.Q.

Emily J. Harbin-

vs. E. E. Billin Chauncey-

J. K. Osborne et als-

1899. Feby. 2nd Rules.- Bill filed. Spa executed. Defts. fail to appear. Decree Nisi.
1st Mch Rules held last Monday in February.- Decree nisi confirmed. Bill taken for confessed. Cause set for hearing.

Virginia,

In the Circuit Court of Lee County.

-----The joint demurrer and answer of Fannie Johnson, Andy Johnson, Nancy Scott and J. K. Osborne to a bill filed in this honorable Court by Emily J. Harber. For demurrer thereto, these respondents say, that said bill is not sufficient in law, but should any or further answer be necessary, answering they say: That it is true that Robert Shelton departed this life on the 6-day of Dec---1879, seized and possessed of the real estate in complainant's bill mentioned, and leaving the heirs therein mentioned, and it is also true that certain of said heirs have sold and conveyed their interest as therein alleged, but it is not true that the plaintiff owns, or is entitled to, one-eighth or any other interest in said land; and it is not true that said land has never been partitioned among those entitled thereto. Your respndents will now show unto your honor how this matter is----After the death of the said Robert Shelton there came into the hands of your respondent--Andy Johnson---as his administrator, a note for $100.00 on Joel Turner, who was then the husband of the plaintiff. This note was executed by the said Joel Turner to the said Robert Shelton, six or seven years before the death of the latter, and was given by the said Turner to the said Shelton for a note of about the same amount that the said Robert Shelton held on his son, Abe Shelton; and the said Turner having purchased a tract of land of the said Abe Shelton at the price of $400.00, he used the said note on the said Abe Shelton in part payment for said tract of land. And at the death of the said Robert Shelton the note held b y him on the said Turner then amounting to about $130.00 was turned over by his administrator, the said Johnson, to the said Joel Turner and the plaintiff, his wife, as and for the full share or interest of the plaintiff in and to the real and personal estate of the said Robert Shelton, deceased, and was received by them as such. This arrangement and agreement was made and carried into effect by the consent of the said Turner and wife, and the other heirs of the said Robert Shelton, deceased, and the remaining seven heirs of the said Shelton on the 24th and 25th days of December 1879, partitioned the real and personal estate belonging to said estate among themselves equally

pursuant ~~x~~ to the said agreement with said Turner and wife. The said Turner and wife being present and consenting thereto and the said Turner assisting in said partition--Said partition was made by C. C. Elliott, Jas. D. Morgan and A. C. McNiel, Commissioners selected by ~~xx~~ the parties, they all being of age and capable of acting in the premises. A plat thereof is herewith filed as part hereof marked "Plat" After all this, and at the first September rules 1895, the ~~plaintiffx~~ plaintiff filed her bill in this honorable Court in the nature of a creditors' bill, by which she sought to recover and collect ~~of~~ from ~~xx~~ the estate of Joel Turner, deceased, the amount of said note, in this suit a Commissioner was appointed to settle the account of the ~~administratorx~~ administrator of Joel Turner, deceased, and report the debts unpaid, etc., and said Commissioner having made and filed his report, in which he reported on the plaintiff's said claim, a decree was rendered in the said cause dis-allowing the claim--the evidence showing that the amount of said note went into and paid in part for the land ~~and~~ owned by the said Joel Turner, deceased at the time of his death which death occurred on the day of 1885. and purchased ~~of~~ as aforesaid from the said Abe Shelton. The plaintiff was ~~then~~ then permitted to amend her ~~bill~~ bill in said cause and seek a partition of said Joel Turner land, and to assert her claim ~~to~~ to a one-fourth interest therein, on account of having paid into the ~~same~~ same ~~in~~ the amount of said note; and at the second May rules 1897, the said amended bill was filed, and the cause coming on to be further heard ~~and~~ upon the amended bill, the Court was of opinion that the plaintiff was ~~was~~ entitled to one-fourth of said tract of land in fee-simple, on account of having paid the amount of said note on the purchase price thereof, and C. C. Elliott, C. D. Smith and P. D. Kinser were appointed Commissioners ~~t~~ ~~t~~ t o partition the said land and did so and made their report assigning to the plaintiff one-fourth of said tract in fee-~~simple~~ in simple, and dower in the remaining three-fourths, which report was afterwards confirmed by decree in said cause---all of which will more fully ~~and~~ and at large appear from the papers and proceedings in said cause, styled Emily J. Harber vs. R. D. Flanary, Adm'r, et als., remaining on file in your honor's Court, to which reference is here made, and which are asked to be read and considered herewith. Your respondents therefore allege that the plaintiff is not entitled to have said real estate of Robert Shelton, deceased, partitioned as she has no interest whatever.

interest whatever in the same, and the said real estate has long since been partitioned by, and among, those entitled thereto, and those entitled and ~~xxxx~~ their vendees have been in possession of said real es- ~~xx~~ tate using and cultivating the same as their own ever since the 25th day of December 1879, and have made permanent and valuable improvements thereon, their said posession being notorious and continuous and with the knowledge of the plaintiff and adverse to her and all ~~xx~~ the rest of mankind; and your respondent Andy Johnson as administrator of Robert Shelton, deceased, on the 15th day of August 1883, made a final settlement of his account before J. A. G. Hyatt, Commissioner of Accounts, which settlement was confirmed and duly recorded, and which shows that the said personal estate after the payment of debts, expenses, etc., was distributed to the said seven heirs and nothing paid to the plaintiff. She has lived in the neighborhood of Robett Shelton's estate ever since and before his death, and no complaint has ever been made by her to any of your respondents, as to her not having received her due proportion of said real and personal estate, and no complaints or demands have ever been made by her to, or upon your respondent, Andy Johnson as such administrator, for any part of ~~he~~ the said personal estate, and no claim has been asserted by her on said real estate until after she received said note as her full ~~sx~~ ~~xxxx~~ share. And your respondents are astonished at the claim now ~~here~~ asserted. And now having fully answered, they pray to be hence dismissed with their reasonable costs, which they have so unjustly been forced to incur in this behalf.

and your respondents invoke the statute of limitation against plff's claim which they allege is barred thereby.

Wm. R. Blankenship P.D.

interest whatever in the same, and the said real estate has long since been partitioned by and among those entitled thereto, and those entitled and ~~said~~ their vendees have been in possession of said real estate using and cultivating the same as their own ever since the 25th day of December 1879, their said possession being notorious and continuous and with the knowledge of the plaintiff and adverse to her and all ~~the~~ the rest of mankind; and your respondent, Andy Johnson as administrator of Robert Shelton, deceased, on the 15th day of August 1883, made a final settlement of his account before J. A. C. Hyatt, Commissioner of Accounts, which settlement was confirmed and duly recorded, and which shows that the said personal estate after the payment of debts, expenses, etc., was distributed to the said seven heirs and nothing paid to the plaintiff. She has lived in the neighborhood of Robert Shelton's estate ever since and before his death, and no complaint has ever been made by her to any of your respondents as to her not having received her due proportion of said real and personal estate and no complaints or demands have ever been made by her or be said personal estate, after she received a said note as her full ~~share~~ share. And your respondents are astonished at the claim now made to your respondent, Andy Johnson as administrator, for any part

forced to incur in this behalf.

missed with their reasonable costs, which they have so unjustly been

here asserted. And now having fully answered pray to be hence dis-

So ~~Your~~ respondent, Andy Johnson as such administrator, for any part

_____ D.D.

O. F. B.

Emily J. Harbeer

28. Answer of
J. K. Osborne, et als.

J. K. Osborne, et als.

Filed in Open Court and
by leave thereof March
the 9th 1899
A. B. Minnsey Clerk

Defts Costs Clerk 101

Clerk 3.56
Tax 1.50
Sheriff 2.00
$7.06
15.00
$22.06

Emily J Barker Plff
vs } In chancery
J. K. Osborn et als. Defts.

On the calling of this cause, it appeared to the Court, that at the November term, 1899 of this Court it was suggested upon the record in the cause, that the plaintiff had departed this life, and that more than two terms of the Court had passed since said suggestion, and no steps had been taken to revive the cause in the name of the plaintiffs administrator or her heirs, On motion of the defendants by their counsel, and the cause being argued by counsel, It is adjudged, ordered and decreed that this cause be dismissed and stricken from the docket.

Emily J Harker
vs
Decree Final
J. K. Osborn et als

Entered O.B. 6 P. 434

Enter this decree
H C W Stem
Nov 8th 1900.

Emily J Barker — Plaintiff
against
J. K. Osbourn et als. — Defendants
} In Chy

On the calling of this cause, the defendants suggested that the plaintiff has died since the last term of the Court. And the cause is continued.

Emily J Harker
vs
Order
J. K. Arkwright et als

Entered on
Chy. O. B. No 6.
Page 309.

Enter this decree
Nov 13th 1899.

Emily J Harbes Plff.
against
J. K. Osborn et als Defts } In Chancery.

On motion of the defendants leave is granted them to file their joint demurrer and answer to plaintiffs bill and the same was filed and the plaintiff endorsed exceptions on said answer, which being argued, and mutured in so far as said answer fails to allege permanent, valuable ~~defendant~~ improvements made on said land by the defendants or their Vendors, since their purchase of plaintiffs interest. And on motion of defendants leave is granted them to amend said answer in that particular, which amendment

Emily J Harker

vs

Decree ds l.

J. K. Osborn Adm

En C.O.B.6 p. 271.

Enter this decree

W. Zun

Nov 10th 1899.

and made at term and the Defendants
Rebecca Jennette To dead answered
and the Cause is Continued

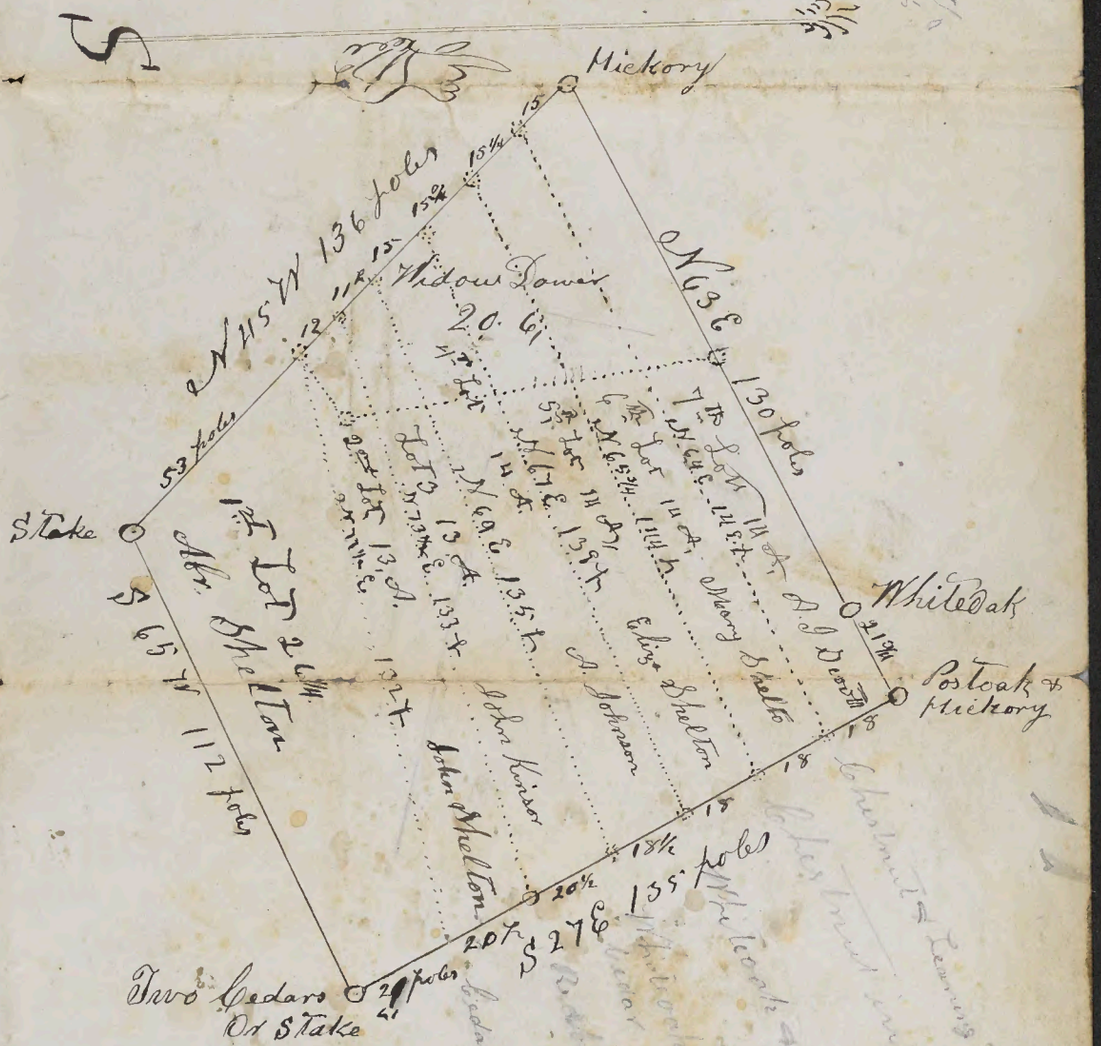
Division of the Land
of Robert Shelton

December the 24. & 25
1879

1896 12
1879 12
17

Plat.

1896
6-24
86



A.J. 1st 2nd 3rd 4th.

5th Ashaunn
6th "
7th A.J. Scott.

Exhibit No. 1 of Deposition of Robert Shelton taken by E. H. Hill, Examiner

$100—

One day after date I promise to pay to Robert Shelton one hundred dollars for value received, waiving my homestead exemption as to this debt. witness my hand and seal this the — day of —/1876

Joel Zinn [seal]